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### The mark of Able

van Dijk, Jan

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## **THE MARK OF ABEL;**

### **Reflections on the social labelling of victims of crime**

*Go on suffering because you have suffered? No! If there is, when the knot is cut, a sparkle of life left, wow! Then get away from it, away from the gallows and high enough up into the hills to enjoy the miracle that you are still alive.*  
C. Rochefort, La Porte du Fond, 1988

*Then the magistrate, pointing to Pinocchio, said in a very solemn voice: "This poor simpleton has been robbed of four gold pieces. Take him, therefore, and throw him into prison".*  
C. Collodi, The Adventures of Pinocchio, 1883

Lecture

Delivered on the occasion of the official acceptance of the Pieter van Vollenhoven Chair in Victimology, Human Security and Safety at Tilburg University on November 24, 2006

by

Jan J.M. van Dijk

## THE MARK OF ABEL; Reflections on the social labelling of victims of crime

*Mijnheer de Rector Magnificus,  
Mijnheer Van Vollenhoven, Hooggeleerde Collega,  
Mijnheer de voorzitter van het College van Bestuur,  
Zeer gewaardeerde toehoorders,*

### Victim testimonies

On 28 August 2006 in Vienna a young woman escaped from the man who had kidnapped her as a ten years old and locked her up in the basement of his apartment for eight years. She told journalists that she had always felt to be the stronger person of the two. She denied to have wept when told of his suicide. She had just felt sorry for his mother. She announced that she would decide herself when to tell her story and would sue any journalist intruding her privacy (BILD, 29 August, 2006). A week later she gave a series of interviews for which she had negotiated a hefty fee. She had herself chosen the questions which were mainly forward-looking and avoided discussion of intimate details. She said that the kidnapper's suicide had been uncalled for and that imprisonment of twenty years would have been a fitting punishment. She further announced plans to use her international visibility for the advancement of humanitarian causes regarding victims of crime (NEWS, 7 September, 2006).

The self-profiling of Natascha Kampusch as an admirably composed and eminently reasonable young woman has struck many commentators as extraordinary or even weird. Her behaviour flouted the stereotypical victim role of the vulnerable, suffering person in need of professional help. But her testimony does not stand alone. In rural Pakistan a young woman, Mukhtar Mai, was gang raped in 2004 by order of village elders as punishment for an alleged indiscretion of her younger brother. According to local custom she was expected to commit suicide out of shame. In defiance of local traditions, she brought her attackers to court and was awarded compensation. As she explained during her presentation at a conference at Tilburg University on 12 October 2006, she used the sum obtained to establish a school for girls in her village. She also explained that she did not like to be called a victim but preferred the more positive term *survivor*. At the same conference Terry Waite spoke about his 5-year-long detainment by fundamentalist terrorists in Lebanon and Leoluca Orlando about the threats to his life from the Sicilian mafia during his mayorship of Palermo. Both explicitly denied the identity of a victim, preferring to be called survivor or mafia target instead.

Many more examples could be given of victims distancing themselves from the stereotypical images of the victim. Suffice one more example, taken from the Netherlands. Some years ago a Dutch world champion in judo told interviewers at a press conference that she had been sexually abused for many years by her former coach. She defined her position as follows: *"I did not feel myself a victim and this is not an act of retaliation either. But other,*

*less strong judokas may well become the victim of these practices and I want to prevent that (...). Because personalities are getting ruined*” (cited in Romkes, 1996).

In these testimonies persons at the receiving end of crime seek to transcend stereotypes of victimhood. They deny the status of victim with its connotations of suffering and powerlessness. They choose to present themselves as strong persons in control of their lives. They also distance themselves from the stereotypical connotation of destructive vindictiveness. Although unashamedly angry at their attackers, they show a strong will to transform their negative experiences into positive action on behalf of others at risk of suffering a similar fate.

In our view, these individual victim testimonies form part of a broader trend among victims to negotiate new social roles or identities for themselves. Associations of the stereotypical victim role with images of feminine passivity have not eluded feminist scholars. Feminists have, unsurprisingly, been the first to critique the labelling of victims as vulnerable and passive ‘losers’ in need of professional counselling<sup>1</sup>. To avoid such stigmatizing labelling, American feminist scholars have proposed to replace the word victim by *survivor*. It has now become common in Anglo-Saxon discourse to refer to survivors of sexual abuse or domestic violence. During the negotiations of the UN protocol against trafficking in women, an alliance of NGO’s proposed to avoid the term victim altogether and to refer simply to “trafficked persons”. In their view the use of the term victims was to be avoided because it would deny the ‘agency’ of the women involved and elicit a discourse on how to help the supposedly weak rather than on how to empower the exploited (Ditmore, Wyers, 2005).

Julia Osmond, a victim support advocate who was appointed UN goodwill ambassador to fight human trafficking, confirms the awkwardness of the victim label: *“There is a kind of stigma that victims feel uncomfortable with; the use of the terminology “victim” is synonymous with weakness, synonymous with shame. The people that I have met who are victims, are survivors, they are resourceful, alive and productive”*<sup>2</sup>. According to Dutch trauma expert Rolf Kleber, one of the founders of the Institute for Psycho-trauma in the Netherlands, both male and female victims increasingly refuse to call themselves victims because of the term’s association with powerlessness. The victims’ movement is confronted with increasing numbers of victims who

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<sup>1</sup> Such “victimism” was critiqued as overstating the negative aspects of weakness and helplessness and obscuring features as responsibility, resilience and activism. In the same vein, other commentators started to take issue with what they saw as the increasing tendency of people to claim victim status as an alibi to avoid personal responsibility for their problems and to claim compensation from others or the state ( the ‘culture of complaint’ and ‘claim culture’ respectively ) (Hughes, 1993). In the USA the term victimology itself became a dirty word in conservative circles (Karmen, 2004). Within the feminist movement criticism was voiced against “complaint feminism” as opposed to more confident and self reliant forms of feminist activism (Romkes, 1996).

<sup>2</sup> Julia Osmond as cited in earlier versions of the documentary “The Forgotten Ones” of M. Platzer, commissioned by INTERVICT and shown at the 14<sup>th</sup> session of the United Nations Commission on Crime Prevention and Criminal Justice in Vienna in 2006.

reject stereotypical victim labels and try to present themselves with personalized labels revolving around their newly found strength (Spalek, 2005)<sup>3</sup>.

### The choice of the *victima* label

For a better understanding of the victims' rebellion against the conventional victim label, it seems important to analyse in more detail the connotations of the term victim. Etymologically the English term "victim" is a derivative of the Latin word for sacrificial person, *victima*. The victim is someone slaughtered to be offered to the gods. The word refers, in other words, to the sacrificial lamb. The word is used to denote those harmed by crime in all Roman languages such as French or Italian (*victime* and *vittima*, respectively). The sacrificial connotations of the word victim may be hidden for most native speakers of these languages. However, the etymological root of the concept of the victim is obvious in Germanic languages. In German, for instance, the victim is called *Das Opfer* and in Swedish *Brotoper*. In the Dutch language the word is even more blatant: *het slachtoffer*. The Dutch term means literally: the butchered, sacrificial object.

The identification of crime victims with the sacrificial object is not limited to English, Roman or Germanic languages. In the Russian, Serbo-Croatian and modern Greek languages crime victims are called sacrificial objects as well. In Arab the word for victim means the sacrifice. It is the same concept as used for the Islamic Holiday of the Sacrifice.

Our etymological excursion reveals that the word victim in European and Arab languages originates from an ubiquitous religious ritual, the offering of a sacrifice as part of the worship of a god. The term *victim* is obviously replete of deep religious meaning in the languages of Christianity and Islam. Why was a term with such holy connotations chosen to refer to ordinary persons harmed, injured or wronged by ordinary crimes? The sacrificer offers something that is precious to him to please or serve the gods. In stark contrast, the offender typically serves no other interests than his own personal desires. On reflection, the use of the *victima* label for those injured by crime is puzzling, not to say perplexing.

In the Chinese and related Japanese languages, a crime victim is called the receiving- harm-person. In this factual term any connotation of sacrifice is absent. Such connotation is also missing in other older languages such as classical Greek, Latin or Hebrew<sup>4</sup>. In the Antique world nobody called a crime victim a victim. Why then did modern Western languages unanimously opt for the *victima* label rather than for a more neutral, legal term such as "wronged person"? This is not just a matter of etymological curiosity. The answer may

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<sup>3</sup> "If the stereotype of victim as "passive" and "helpless" is perpetuated in dominant representations of victimhood, during a time when individual strength is valued in society, then both males and females may increasingly refuse to situate themselves in terms of victimhood. They may even reject services, despite the harms experienced, due to their distaste for the label "victim" and the kind of stereotypes it elicits" (Spalek, 2005).

<sup>4</sup> In the Urdu language, used in parts of Pakistan and Afghanistan, the word used for the wronged party of a crime literally means 'the infected one'. Although the term has no sacrificial connotation, it is even more stigmatising.

provide us with insights into the philosophical underpinnings of the stereotypical image of the victim that is now increasingly critiqued.

### **Sacrifices and scapegoats**

To understand why victims are called victims, a thorough examination of the meaning of sacrificial rituals seems called for. This is, admittedly, a tall order for a criminologist. But to advance the emerging discipline of victimology, it seems indispensable to unravel the etymological roots of the term victim. As my guide on this multi-disciplinary voyage, I have chosen the French-American philosopher/anthropologist Rene Girard, who has written extensively about the sacrificial tradition in religion<sup>5</sup>. His theories on sacrifices and scapegoating may shed an illuminating light not just on why victims in our culture are called victims but on what such denotation implies for those so labelled.

In the Girardian view the peace in each human community is under permanent threat from the tendency of its members to be envious of each others possessions (called by him *mimetic rivalry*)<sup>6</sup>. To escape from situations of ongoing bloodshed, human communities periodically redirect their rivalrous violence against group members who are set up as common enemy. Through acts of collective violence against such scapegoats, jealousy-driven bloodshed among the community can be brought to an end. Girard calls such acts of scapegoating the *surrogate victimage mechanism* (Girard, 1977, 1978, 1978<sup>2</sup>, 1986, 1987, 2001)<sup>7</sup>. In the aftermath of the sacrificial lynching, the community feels united again and stable social relations can be re-established. The newly acquired peace is ascribed to the healing powers of the victim. In the more drawn out versions of scapegoating myths, the victim therefore becomes object of reverence and worship. The emotions of the

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<sup>5</sup> Rene Girard was born in Avignon, France, in 1923 where he studied medieval history. He later emigrated to the USA where he taught French literature at several Universities, including Johns Hopkins and Stanford. His early books offer psychological interpretations of works of world literature revolving around the twin concepts of mimesis and scapegoating. In his later work he applies the same interpretative scheme to a wide range of anthropological and theological topics. He received honorary doctorates of many universities including the Free University of Amsterdam in 1985 and was elected to the French Academy of Sciences in 2004. The Free University maintains a website about his work ([www.renegirard.nl](http://www.renegirard.nl) or [www.bezinningscentrum.nl](http://www.bezinningscentrum.nl)) Recommended introductions to his work are Fleming (2004) and Kaptein and Tijmes (1987; in Dutch).

<sup>6</sup> Girard (1987) agrees with ethologists that humans share with other primates an animalistic tendency to aggressively establish social rank orders (Lorenz, 1966; Van Dijk, 1972). Among animal communities such dominance behaviour establishes stable social hierarchies. Among chimpanzees serious intra-group violence is limited to rare, transitional periods of rank instability. Humans have the brainpower to identify themselves with better-off rivals and to experience the uniquely human emotion of mimetic rivalry. Unlike chimpanzees, humans therefore do not easily tolerate the asymmetric riches of their elders and peers. In human communities the threat of rivalrous murder is constantly looming.

<sup>7</sup> In some respects Girard's theory of acts of collective lynching resembles Freud's hypothesized primordial killing of repressive fathers elaborated in his book *Totum and Taboo*. Ethological studies have recently confirmed that young male chimpanzees, though normally peaceful, carry out murderous attacks upon alpha males who have lost their power to dominate the group (De Waal, 2001). In the Girardian view human lynchings are fuelled by a dangerous blend of animalistic drives and the uniquely human quality of mimetic rivalry.

lynching mob turn from anger into gratitude and the victim of the culture-founding violence is transformed into a Totum or god.

In the newly founded post-scapegoating cultures, taboos on rivalry and retaliation are put in place to prevent the recurrence of violent anarchy. Another essential cultural institution to avert recurring crises is the ritual sacrifice. According to Girard's theory, ritual sacrifices of humans or animals are to be seen as re-enactments of lynching parties that have taken place in pre-historical times. In Girard's view the killing of a *victima* is a re-enactment of the primordial lynching. Through participation in the sacrificial ritual the community purifies itself of budding rivalrous tensions<sup>8</sup>. Sacrifices act as safety valves for emerging interpersonal aggression. If taboos and sacrificial rituals fail to keep mimetic rivalry under control, a new period of indiscriminating violence will soon break out, requiring yet another act of scapegoating. The ritual killing of a *victima* is a cultural device to avert the recurrent killing of scapegoats.

### A focus on suffering

According to Girard, the narratives of all religions revolve around the violent scapegoating of a leader fallen from grace, and Christianity forms no exception<sup>9</sup>. In one essential respect, however, Christianity fundamentally differs from most other religions. The Gospel tells the scapegoating narrative from the perspective of the victim and not that of the accusers. The Christian God, in the words of Girard, does not stand at the side of the lynchers but is essentially "*the God of the Victims*" (Girard, 1987)<sup>10</sup>. Christianity's theological uniqueness lies in its "*progressive unveiling, repudiation and critique of scapegoating*" (Fleming, 2004; Allard, Nortley, 2004). The story of the Passion of Christ - foreshadowed by the story of the suffering of Job - exposes and critiques the recurrent cycles of scapegoating on which human civilizations are built. Consequently, the Christian concept of *victima* does not, as in pagan religions, emphasize the relationship between the sacrificers and their gods but focuses on the suffering of the sacrificed. The primary association of *victima* had become the suffering person. This Christian connotation of suffering explains in my view the assignment of the *victima* label to victims of violence or crime generally across European languages<sup>11</sup>.

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<sup>8</sup> In Antique Athens a small group of socially marginalized persons was kept in custody to be killed at moments of social crisis during the Dionysian festivals (Girard, 1977). The victims were called the *pharmakoi* or healers. The Athenians also maintained the practice of purification of the city through the ritual expulsion of a goat during their annual Spring festival. The goat, also called the *pharmakos*, is the Greek forerunner of the scapegoating ritual described in Leviticus (Fleming, 2004).

<sup>9</sup> In several seminal publications Girard reveals the universality of the scapegoating theme in classical Greek tragedy, especially in Oedipus Rex (Girard, 1977; 1987). Etymology gives away the hidden plot of Greek tragedy. The concept of scapegoat is one of the components of the word tragedy (*tragoidia*), with *tragos* meaning goat and *edý* praise. Etymologically tragedies are elegies of the scapegoat. They tell the stories of tragic victim heroes.

<sup>10</sup> Girard agrees with Nietzsche's intuition that Christianity differs from pagan religions in its rejection of violent scapegoating and retaliation. But unlike Nietzsche he sees the rejection of such "holy violence" not as a surrender to the 'morality of slaves' but as a crucial breakthrough in the process of human civilization.

<sup>11</sup> It lies beyond the scope of this lecture to explore the Islamic, theological roots behind the use of the *victima* label in Arabic. Common ground of Christianity and Islam is the story of

The word victim is a recent importation in the English language. It was first introduced into the English language in the Rhemish translations of the Bible in the late 17th century. In one of its oldest documented appearances in the English language, the word victim refers to the crucified Jesus Christ (Oxford Dictionary, 1978)<sup>12</sup>. The generalized use of the *victima* label to denote victims of crime, however, cannot be seen as directly flowing from biblical language. In biblical texts those inflicted by murder or other crimes are never called victims but described in the neutral, Chinese way, e.g. as the beaten or conquered ones. In the context of the Bible the labelling of crime victims as *victima* alongside Jesus Christ, son of God, would have been tantamount to blasphemy.

Although the use of the *victima* label for crime victims seems to have a distinctly Christian background, this practice has not started in any European language in the context of the Bible. During most of Christian history the term *victima* was used exclusively in the sacral sphere. Dictionaries of several European languages date the first usage of the word victim for those severely injured or harmed by man-made events in the 17th century at the earliest. To my knowledge older uses of the *victima* label for crime victims are unknown, at least in Europe.

Why did it take Christian cultures so long to assign the *victima* label to a wider circle of suffering persons including crime victims? According to Girard, early Christian theologians interpreted, as said, the Crucifixion of Jesus Christ from the perspective of the suffering victim but they did not interpret the Crucifixion as an act of scapegoating. The psychological mechanism of scapegoating was not understood before the seventeenth century (Girard, 1987<sup>2</sup>). For medieval theologians witch hunts or pogroms were justified attacks on guilty perpetrators of horrible acts (Girard, 1986). The victims were not regarded as scapegoats and thus not as victims in the modern sense. It was only in the course of the seventeenth century that Western scholars began to recognize the psychological phenomenon of scapegoating. It was only then that persons killed during sacrificial rites could be recognized as "fall guys" or scapegoats.

The discovery of scapegoating must have shed a revealing light on the phenomenon of human sacrifices. It will probably have robbed the term *victima* of its connotations of holiness and thereby made it available for use in the profane sphere. Although causality in such matters is difficult to prove, it was definitely only in the late 17<sup>th</sup> or early 18<sup>th</sup> century that crime victims were for the first time called victims in the sense of persons suffering innocently by the hands of their fellow men<sup>13</sup>. Labelling those wronged by crime as *victims*,

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God's refusal of Abraham's intended sacrifice of his son. Islam identifies with the sacrificed, especially so in the theology of the Shiites, though, according to Girard, in a comparatively militant way ([www.Fenegirard.nl](http://www.Fenegirard.nl)).

<sup>12</sup> The French dictionary *le Robert* also mentions the use of the word *victime* as name for Jesus Christ. In as early as 1642 the French classical author Corneille called Jesus: *le victime volontaire*.

<sup>13</sup> According to the Oxford English Dictionary (1978) the word *victima-victim* is related to the Germanic concept of *Weihen*, meaning to consecrate. The word victim seems therefore to be etymologically related to the German word for Christmas: *Weihnachten*. The verb *Weihen* is,



then, seems a manifestation of modernity within the context of Christian culture<sup>14</sup>.

### **Treason of the clerics**

At first sight the adoption of the *victim* label for victims of crime in modern Christian culture seems to have merely positive implications for those so labelled. Unjust suffering seems to be the label's primary connotation and this raises expectations of solidarity and help. Indeed, Girard himself sees a direct link between Christian identification with the Sufferer and the Western tradition of offering help to the vulnerable and needy. In one of his latest books Girard praises efforts to offer support and protection to concrete victims as the ultimate manifestation of the theological victim-centeredness of Christianity (Girard, 2001). In the view of Girard the provision of victim support is operational Christianity at its best.

Girard's hypothesis of the progressive unveiling of the scapegoating narrative within Christian theology has helped us to understand the choice of the *victim* label for ordinary crime victims across the Western world. Against this background it is logical to assume, as Girard does, that the provision of support to actual victims is a product of modern Christianity. The historical evidence, however, does not support this somewhat triumphalist claim with regard to victims of crime. If victim support would be the obvious operationalization of late Christian morality, one would, first of all, expect Christian denominations to have spawned victim support initiatives throughout the Western world for centuries. The historical reality is that the "victims movement" only started three decades ago and that Christian churches have hardly played a role in it. Christian churches in many countries have been at the forefront of prisoners care and rehabilitation. But in the history of the comparatively young discipline of victimology, the Christian Churches are conspicuously absent<sup>15</sup>. Among the clergy the example of the Good Samaritan seems to have largely fallen on deaf ears.

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according to the same dictionary, etymologically related to the Sanskrit word *Vinakti* which means setting apart or singling out. Etymologically the word *victim* refers to the sacred scapegoat. In this context reference should also be made to the etymology of the words *sacred* and *sacrifice* (*sacer facere*). Both words are derived from the Latin word *sacer* which means both the holy and the accursed (Fleming, 2004). The verb *sacrare* means to set apart, like *Vinakti* in Sanskrit. At the deepest etymological level the word *victim*, then, refers to those sacrificed in the sense of those who achieved holiness by having been lynched.

<sup>14</sup> The French dictionary *Le Robert* refers to the use of the word *victim* in the context of the French Revolution. The wigs that aristocrats were forced to wear when guillotined, were called "*costume à la victime*". This early usage of the term *victim* stands clearly in the profane sphere. It also hints at an emerging understanding that those executed were scapegoats of the Revolution.

<sup>15</sup> In the Netherlands, for example, care and after care for prisoners have traditionally been in the hands of church-based NGO's. In contrast, no special programmes have ever been initiated by Dutch churches on behalf of crime victims, with the exception of the Salvation Army that once ran a small pilot project on offender-victim reconciliation. The first impulses for concrete victim support in the Netherlands have come in the late 1970's from a charity organization of humanists, called *Humanitas* (Wemmers, 1996). In the meticulously documented history of the victims movement in the UK, religious denominations are hardly mentioned either (Rock, 2004). A quick survey by the author among past presidents of the World Society of Victimology confirmed that although individuals involved in the movement include religiously inspired persons, in no country Christian churches have been at the

Now that we have gained a better understanding why victims are called victims, the new question comes up why those so labelled have not received better treatment in Christian societies much sooner. Which unexplored elements in the Christian attitude towards those suffering from the consequences of crime have prevented church-based organizations from rallying to their cause? As we will demonstrate below, it is, once again, Girard's work on mimetic rivalry and scapegoating that sheds light on this issue. As we will see, the Christian image of the victim comprises more than a focus on innocent suffering.

### **Les defaults de ses qualités**

Revenge is called by Nietzsche in his final book, the *Anti-Christ*, '*that most unevangelical of all emotions*' (Nietzsche, 1888/1969 ). And indeed during his Crucifixion Jesus says about his tormentors: "*Forgive them, Lord, because they do not know what they do*" (Lucas 23-34). With these famous words, Jesus Christ practiced what he had preached all his life. In his Sermon on the Mount he preached forgiveness, symbolized by the turning of the other cheek to one's aggressor (Matth. 5:38). In the Old Testament "Vengeance is Mine" is still a warrior's cry of the God of Israel (Deut. 32:35). In the New Testament it has come to mean the opposite. Revenge is claimed as the exclusive prerogative of the Lord. Vengeance is mine, has become a commandment to the believers to abstain from retaliatory action (Romans 12:19). In the Old Testament forgiveness is still dependent on the payment of fair compensation to the victim. In the New Testament victims are expected to offer it unconditionally (Lascaris, 1999).

Where forgiveness in Islam is recommended as a form of charity that brings victims the reward of reconciliation<sup>16</sup>, it is nothing less than an absolute moral duty for Christians. Even recidivists should be forgiven again and again (Mattheus 18:22). The refusal to forgive seems, in fact, to be the only unforgivable sin (Mattheus 6:15; Mattheus 18:35).

Unsurprisingly, the denial of forgiveness, Wrath, is one of the seven deadly sins in Catholic morality. In Dante's *Divinia Commedia* special places in hell are reserved for the envious and the wrathful. They have to suffer in the fourth circle. Even deeper down in hell especially gruelling places are reserved for those who have actually murdered their attackers by way of retaliation. Before descending to this most horrible part of Hell, Dante encounters the Furies, the Avenging Goddesses of Ancient Greece. There is no mercy for the merciless in Dante's Hell.

Jesus Christ as a cultural symbol for crime victims does not just stand for innocent suffering. It also stands for meekness and forgiveness (Tutu, 1999). Although the terrorist attack on his life remains clouded in mystery, the late

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forefront of victim-friendly initiatives, with the possible exception of the Mennonite Church in the USA.

<sup>16</sup> '*Tooth for tooth, and wounds equal for wounds. But if anyone remits the retaliation by way of charity, it is an act of atonement for himself*' (Qurán, v: 48).

Pope John Paul II visited his attacker in prison in order to offer him forgiveness. A Dutch Catholic theologian, Lascaris - who published extensively about Girard's scapegoating theory - exhorts victims of crime to follow the example of Jesus Christ by forgiving their offenders. They should recognize in their offenders victims like themselves and therefore offer forgiveness (Lascaris, 1993). In this purest of evangelical views, victims and offenders should embrace each other as fellow victims.

Christianity offers charity to sinners on the condition that they repent. It offers charity to the victims on the condition that they forgive. This theological position seems to have informed church policies regarding crime victims. Most Christian churches have kept their distance of initiatives to assist crime victims as a goal in itself. At the same time many churches have actively supported programmes promoting reconciliation between victims and offenders (Allan, Northey, 2004). As Pavlich (2005) observes: *"the now pervasive values of restoration, healing, reintegration, forgiveness and compassion within restorative governmentalities often derive from theological roots. Church-based restorative justice initiatives seemed to align particularly well with community mediation-panels and victim-offender reconciliation programs"*. In other words, if Christian churches reach out to crime victims, it is with a view of reconciling them with their offenders.

The flipside of the Christian image of the victim as innocent sufferer is that of the victim as someone generously offering forgiveness. In late Christianity, He-Who-is-Sacrificed has not just become He-Who-Suffers-Innocently. The model victim is He-Who-Suffers-Innocently-but-Forgives-Nevertheless. The "good victim" is construed as someone who carries his suffering meekly and offers his attackers instantaneous and unconditional forgiveness.

In early October 2006 members of the devoutly Christian Amish community in the USA could be heard pleading for forgiveness on national TV after the shooting of a group of school children. Some community members publicly embraced the parents of the perpetrator. Such superhuman forgiveness is, of course, admirable and sets a shining example for others. However, the role expectancy in Western culture that victims, whatever their circumstances, forgive their offenders as a means to achieve reconciliation puts a heavy moral burden on many actual crime victims. For many victims the examples of Pope John Paul II and the Amish will be 'a hard act to follow'. Reconciliation with their attackers may be psychologically out of reach for many victims of serious crime in the early stages of their coping and may sometimes remain so forever (Van Dijk, 1991).

Many crime victims may find out that for them forgiveness and reconciliation are an impossible demand and feel guilty about their failure to live up to this high-minded Christian expectation. The moral imperative of forgiveness and reconciliation may launch them onto a severe guilt trip compounding their suffering. Even worse, their social environment may sense their failure to forgive and therefore forsake the solidarity and support that victims need in their state of prolonged suffering. In this bleak scenario, the labelling as victim sets victims up to be perceived as potential sinners, unworthy of the

community's sympathy. The role expectancy of forgiveness can turn victims into perceived offenders.

The mother of a murder victim in the UK, Diana Lamplugh, transformed her sorrow and anger into a highly successful political campaign for improved personal safety in work environments. She recalls many negative and suspicious reactions to her activism in its early stages. *"A good victim is before anything else some one who is negatively defined: not intelligent, not visible, not verbal, not angry. The only permitted mode is: keep sobbing and be silent"* (Teeseling 2001). Behind this intolerant attitude towards active victims, we suspect the influence of the Christian commandment of meekness and forgiveness. A Canadian victim counsellor once told me how she had to dissuade a religious minister in Toronto from preaching about forgiveness to a community freshly confronted with allegations of sexual abuse of their children by one of their most prominent parishioners. For many Christian church leaders, forgiveness is the moral knee reflex to stories about victimization by crime. For many victims the Christian command to forgive asks 'too much, too soon', when practiced in such an absolutist and inconsiderate way.

According to Jacoby in her book about the repression of revengefulness in Western culture, angry victims are often shunned by their social network: *"We prefer to avert our eyes from those who persist reminding us of the wrongs they have suffered (...). Such people are disturbers of the peace; we wish they would take their memories away to a church, a cemetery, a psychotherapist's office"* (Jacoby, 1983). It seems that the treatment of victims in our victim-centred culture has been less inviting and benign than one would be inclined to assume. Perhaps it is time to problematise the prevailing images of crime victims in Western culture. Perhaps the assignment of the victim label with its ambiguous connotations is as much part of the problem as of the solution.

### **The victim as secondary scapegoat or why the label fits so well**

The demand of forgiveness may be problematic from a victimological perspective but it is not a feature of Christianity that can easily be re-interpreted or dismissed. The rejection of revenge seems a core Christian value, intrinsically linked to the Christian repudiation of scapegoating. It is difficult to imagine a culture that categorically rejects violent scapegoating in its mythology but celebrates retaliatory violence in interpersonal relations. The rejection of the blood feud goes hand in hand with the rejection of recurrent scapegoating<sup>17</sup>.

Originally, those harmed by crime possessed the right or even the holy duty to take revenge against the perpetrators. Vengefulness seems a universal human trait that may well have a biological basis (De Waal, 2001; Van Dennen, 2003). But however deeply rooted the *vendetta* may be, its free expression within human communities always constitutes a dangerous disturbance of the peace. If the victim is allowed to strike back at his attacker, others may come to the rescue of this new victim or follow the bad example by "acting out" against their own rivals. The tit for tat is one of the most

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<sup>17</sup> Greek tragedies such as those about Oedipus and Orestes still stand in a mythological tradition wherein scapegoating and retaliation form an interrelated, central theme.

dangerous of all mimetic acts since it can easily escalate into a free for all and thereby engender a crisis necessitating a new act of scapegoating. As Girard (1987<sup>2</sup>) has observed, all human civilizations, whether primitive or advanced, must therefore find means to control the human urge to retaliate violent attacks. It follows from this insight that a culture repudiating scapegoating is especially vulnerable to escalating violence since it can no longer heal itself from a new crisis by these drastic means. Because Christian culture categorically declines taking the proven medicine of scapegoating, it must of necessity nip the cycle of violence in the bud. The Christian taboo on vengeance is the functional concomitant of its repudiation of the human sacrifice.

This analysis suggests that the same progressive critique of scapegoating that allows Christianity to see crime victims as sufferers who deserve compassion, dictates that they must be strictly prohibited from exacting revenge. Ironically, the prohibition of retaliation dictated by the repudiation of scapegoating puts crime victims precisely in the position wherein scapegoats have been since times immemorial. Through the ritual killing or expulsion of a scapegoat, primitive communities refound their unity *"at the expense of a victim who is not only incapable to defend himself but also incapacitated to arrange any form of retaliation"* (Girard, 1987<sup>2</sup>). In non-scapegoating cultures, the process of scapegoating re-emerges in the treatment of victims of interpersonal violence. The crime victim is construed as the person who helps to restore the broken peace by renegating his ancient right of revenge in order to avert social crises necessitating a relapse to primitive, un-Christian scapegoating.

In conventional sociological thinking criminality is seen as functional because the transgression of the norm by the offender provokes the community to reconfirm its values and norms through punishment of the offender. It thereby strengthens its social cohesiveness. This Durkheimian scenario presupposes implicitly that the victim does not retaliate. Criminality becomes potentially dysfunctional as soon as victims take up their arms and strike back. To keep crime functional for societies, the interests of the victim must be stealthily sacrificed.

To sum up, the *victima* label is used to denote crime victims in late Christianity because of its association with unjust suffering. The secondary association of a *victima* is that of the lamb who refrains from retaliation. This secondary connotation of the label perfectly suits the intrinsic Christian demand of victims to forgive their offenders. This double suitability of the label may well have been the deciding factor behind its universal adoption to denote ordinary crime victims across the modern Western world. The persons so labelled have thereby become simultaneously objects of compassion and scapegoats of the need to restore the peace in the aftermath of a crime. They are victims of the crime as well as of society's controlling response to their situation. Crime victims are sacrificed twice, once by the perpetrators who have inflicted injuries on them and once by the community who prohibits aggressive ways of coping.

### **Criminal justice or the secret art of victim incapacitation**

In most if not all pre-modern law systems victims or their relatives are expected to trade their right of revenge for the payment of *compensatio* by the offender (in English known as the bot). Historically, the core function of penal law is not to punish the offender but to arrange compensation for the victims as a quid pro quo for their holy right to take revenge upon the perpetrator<sup>18</sup>. In Dutch the *compensatio* for the victim was called *zoengeld*: the sum required to buy *verzoening*, meaning reconciliation. With the advent of centralized power, compensation gradually gave way to state and church-based punishment (Johnstone, 2002). Rather than arranging compensation to buy off the victims revenge, the state started to impose violent punishments and hefty fines on the offenders to advance collective interests<sup>19</sup>.

The transformation of punitive compensation into retributive fines is generally interpreted against the background of emerging state formation (Schafer, 1968). However, the substitution of compensation by a system of fines can better be explained as a result of an incremental process of victim scapegoating. If the purpose of criminal justice is to squash the imminent blood feud, compensation is a problematic concept. Compensation forces criminal justice to strike a balance between the claims of the victim and the interests of the offender. Such balance can more easily be obtained if the victim's subjective claims are replaced by objective assessments of what punishment seems right in relation to the offender's degree of guilt. The payment of arbitrarily determined compensation to the victim is an "anachronistic" tribute to the denied rights of the victim to take revenge. The peacemaking function demands the progressive elimination of such compensation from criminal procedure. In modern, codified criminal justice the victim is therefore no longer welcome as a party in the procedure. Besides his legal duty to testify, his only remaining right is to enter a claim for civil damages, mostly against heavy procedural odds.

In the meantime, as the older textbooks of criminal law recall, retributive justice continued to serve the function of breaking the vicious cycles of revenge. The judge imposes punishment upon the offender to prevent the victim or his family from taking the law into their own hands (Walker, 1972). According to the Italian philosopher Montero, private retaliation leads to further disorder and may be excessively cruel for the offender. Criminal justice must avoid this by absorbing the urge for revenge in the state's monopoly of violence.

In the course of the 20<sup>th</sup> century retributive punishment theories were replaced by various utilitarian theories. Punishment was supposed to perform functions

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<sup>18</sup> The root term in penal law or penology is the Greek word "penos" which means compensation. It is not as is often wrongly understood, derived from the Latin word "poena", meaning punishment.

<sup>19</sup> In older victimological literature (Schafer, 1968) as well as in current literature on restorative justice the substitution of state punishment for victim compensation is often presented as a loss for victims. Several authors have doubted whether the traditional system of *compensatio* really served other interests than those of the powerful and rich who could afford to buy off their crimes (Wright, 1991). In fact, the duty to initiate costly criminal proceedings may have been a burden for most victims (Pavlich, 2004).

for the community such as general deterrence or rehabilitation of offenders. When retributive punishment philosophies were replaced by utilitarian considerations the victim was not even an addressee of the verdict any more. Montero's aim has almost entirely been forgotten<sup>20</sup>. Victims have become, in the words of Schafer (1968) the Cinderellas of modern criminal justice.

In our view the radical exclusion of the victim from criminal justice was the logical end destination for an institutional scapegoat. Through their total disappearance from the scene of modern criminal justice, crime victims had finally been '*incapacitated to arrange any form of retaliation*'. They could now by their absence be trusted to make their indispensable contribution to the Durkheimian scenario of increased social cohesiveness in the aftermath of a crime.

According to Girard, criminal justice shares with sacrificial rites the function of reconciliation through violence (Kapteyn, Thijmes, 1987). In sacrificial rites the "good violence" drives out the bad. The "good violence" immanent in criminal justice as a quasi- sacrificial rite is targeted at both offenders and victims. The suffering imposed upon prisoners is now generally recognized as an inevitable evil and is therefore imposed and executed with an uneasy conscience. In contrast, the scapegoating of the victim by criminal justice is executed unconsciously and subjectively in good faith. The suffering of crime victims caused by the system has till recently remained largely unnoticed. Many legal experts are still proud to oppose victims' rights. The exclusion of the victim is still regarded as 'good violence'. With regard to victims of crime the mechanisms of scapegoating are still working because they are not recognized as such.

### **Victim blaming, stigmatization and secondary deviance of victims**

The consequences of the victim label go beyond the diminished role of victims in criminal procedure and their effective incapacitation as avengers. The label of *victim* has other implications that work out negatively for the persons so labelled. In mythology the figure of the scapegoat is far from innocent. He has provoked the rightful anger of the community through his deviant, taboo-breaking physiognomy and behaviour. He may, as Oedipus in the tragedy Oedipus Rex, take the sins of the community on his shoulders but these sins are perceived to be primarily his own (Ryan, 1976). The scapegoat in myths and sacrificial rites is universally blamed for his own misfortune and is often forced to admit his guilt prior to his killing (Fleming, 2004). From an mythological or anthropological perspective, the label of victim does not augur well for the social reputation of those so labelled<sup>21</sup>.

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<sup>20</sup> In a recent exhaustive overview of punishment theories, the function of retaliation prevention is no longer mentioned (De Keyser, 2000). This omission reflects how radically victims have now been excluded from the criminal justice discourse.

<sup>21</sup> In scapegoating rituals the accusers, often themselves potential alternative candidates to be singled out, go to great ends to persuade the victim of his guilt. In some of his earlier writings Girard (1986; 1987) has extensively written about the scapegoating of the biblical figure of Job. According to Girard the friends of Job in the so called Dialogues accuse Job to have only himself to blame for his misfortune: "*Only those who have planted the seeds of injustice, will harvest it too*". For Girard the friends of Job are "faux amis", actors in a veiled scapegoating story, comparable to Brutus in Shakespeare's play Julius Caesar ( Girard,

In the setting of criminal justice the offender has an obvious interest in victim blaming to diminish his own culpability for the crime but in these self-serving efforts the offender does not necessarily stand alone. The system's hidden objective to incapacitate the victim from taking revenge is greatly facilitated if the crime can partly or wholly be blamed on him. In the context of criminal justice the victim is ideally reconstructed as someone who is not free of guilt himself, as someone whose right of retaliation is dubious from the start. By receiving part of the blame, the victim becomes in fact a potential co-defendant. He participated in an event that has seriously endangered the communal peace and should count himself lucky not to be officially listed in the indictment. Victim blaming is the best possible justification for the "cold shoulder" given to victims by the justice system. Victim blaming is the secret weapon of victim incapacitation.

Victim blaming does not just help to incapacitate the victim as potential avenger. There is another reason for blaming victims for their own fate, one that has attracted the theoretical attention of psychologists. To function as social beings, people must have a minimum of trust in each other. Social behaviour relies on the expectation of reciprocity, or, as psychologist call it, the belief in a just world (Lerner, 1980). Crime victim stories are unwelcome reminders that horrible, totally unjust things happen. Such stories can easily upset people's cherished belief in a just world. To restore basic trust, bystanders are inclined to blame the victims for their own misfortune (Underwood, 2004; Eisenberger, 2004). In a collection of interviews with victims and survivors the sister of a murder victim is quoted as saying: *"It was as though Seth had done something shameful- and, in a way, he had. His murder had proved that crime might touch anyone. If my brother was not somehow to blame for his death, then no one was safe?"* (Neiderbach, 1986).

By telling themselves that only fools or risk takers fall victim to a crime, bystanders reassure themselves of living in an essentially safe and just world (Underwood, 2004). This might have been another motive behind the accusatory statements of the false friends of Job. It is certainly a motive behind our near universal readiness to believe in Oedipus' guilt or in the historical guilt of the Jewish people. In other words, bystanders in the community have their own powerful reasons to support the conspiratorial, self serving story of magistrate and defendants that the victim has primarily himself to blame. Victim blaming serves so many vital interests of community, defendant and bystanders that the victim's Job-like protestations are readily dismissed. Victim blaming and victim labelling go hand in hand, in mythology as well as in criminal justice. The victim label brings not just connotations of passivity and, in our times, unmanliness but also of guilt. In these respects it can without reservation be called a stigma.

Victim labelling theory sheds new light on the central victimological puzzle why the victim of crime, though apparently fully deserving society's solidarity

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1991). What they want to achieve with their friendly advice to Job is what Kreon managed to achieve with Oedipus in the tragedy Oedipus Rex: self-accusations of the accused and his subsequent irreversible expulsion.



and help, is so often treated with suspicion, disrespect or even animosity. Through criminal justice we punish the perpetrator for his blatant breaking of the peace. But criminal procedure and punishment are also meant to prevent the victim from taking revenge and perpetuating the violent cycle. From this perspective, the victim, although materially absent in the proceedings, is indirectly always also at trial. He is mentally present as the receiver of the incapacitating and stigmatizing label of the scapegoat who is blamed for his misfortune.

Old style police officers typically express suspicion about the victim's motive to report, his own possible involvement in the crime and the truthfulness of his claims for compensation. The reception is largely unsympathetic. This treatment sets the scene for subsequent derogatory treatment by prosecutors, clerks, judges and defence counsels. Many victims feel intimidated and humiliated by the experience of being a victim-witness. This fairly common form of "adding insult to injury" has been called "secondary victimization" in victimological analysis. Such "secondary victimization" of victims by police detectives and other criminal justice personnel is usually interpreted as an unintended side effect of a military style of policing. Victim advocates therefore started to campaign for better instructions and training of the officials. The results of these efforts have been disappointing. Satisfaction among victims with their treatment by the police has not improved. With hindsight these efforts appear to have been based on a flawed diagnosis. In the light of victim labelling theory, the phenomenon of secondary victimization is perhaps not a side effect of flawed training or instructions but the realization of the latent function of victim incapacitation by police forces. The disrespectful interrogation at police stations is then to be seen as a semi-conscious effort to dissuade the victims from standing on their rights. After his contacts with the system, the victim should ideally feel ashamed about what happened and about his own role in the events. He or she should no longer be inclined to claiming rights for him or herself. He should leave the police station feeling utterly defeated: as a willing scapegoat. As a rape victim from the USA expresses it in the film *the Forgotten Ones*: *"You would expect the police to be supportive and helpful but that was not what happened at all. I felt awful"*. In many cases the hidden function of incapacitation is still fulfilled quite successfully by the police.

### **Early victimology and victim blaming**

The first generation of victimologists such as Mendelsohn, Von Hentig, Schafer, Nagel and Fattah propagated a victimological programme that we would now classify as penal or interactionist victimology (Van Dijk, 1999). These pioneers were primarily interested in the role of the victim in the events leading up to the crime, or in what American criminologist Wolfgang defined as "victim-precipitation" (Wolfgang, 1956). Their intellectual interest was the degree of involvement of victims in their own victimization. Mendelsohn tells how his interest in victimology was raised when he had to act as defence counsel of a man who had killed his unfaithful wife and her lover (a so called *crime passionnel*). His sympathies were firmly with the offender. Von Hentig's interest in victimology emerged from his painful realization as patient recovering in a military hospital that as an officer in the German army he had

primarily himself to blame for his "victimization" ( Mueller, Adler, 2005). As Nagel stipulated, victimology was to be seen not as a discipline but as a notion in criminology. Early victimology added the victim as new factor in the etiology of crime (Nagel, 1963).

The preoccupation of the first victimologists is neatly summed up in the title of Fattah's first monograph on the subject: *Le victime, est-il coupable?* Their answer was a qualified yes. Many victims were supposed to have provoked the offence or at least to share part of the blame. Victims were categorized according to the extent of their guilt. According to Von Hentig some persons were even 'born victims'. From our present perspective, these victim typologies stand squarely in the criminal law tradition of victim blaming. Some of this early victimology literature may even have contributed to concrete victim blaming in criminal law practice. In the 1970s the uncritical application of Wolfgang's concept of victim-precipitation to the domain of sexual violence by Amir (1971) triggered a storm of criticism. Victimology was exposed by feminists and others as the science of glorified victim-blaming (Eigenberg, 2003; Goodey, 2005). In some of the later publications of the pioneers, most notably of Mendelsohn, the interests of victims have become the vantage point of analysis. But it cannot be denied that victimology started ideologically on the wrong foot. Early victimology reproduced preconceived victim images that were harmful rather than helpful to actual victims.

### **Treatment-oriented victimology and the image of the victim as passive sufferer**

The second wave of victimological studies did not look back at how the crime was committed but focused on the various emotional problems and needs of crime victims after the crime. The central theoretical challenge of this victimology are to understand how victims cope with traumatic stress and how they can best be assisted therein (Horowitz, 1986). Victimological research became a topic for clinical psychologists and psychiatrists. Since crime victims are faced with similar coping problems as victims of disasters, war experiences or life events generally, this stream of victimology is less exclusively focussed on victims of crime. It has therefore been called general victimology (Karmen, 2004). Since the term general victimology ignores the clinical orientation of this type of victimology, treatment-oriented victimology seems more fitting (Van Dijk, 1999).

Therapeutic interventions aimed at victims may serve the hidden function of victim incapacitation by labelling victims as passive and weak sufferers in need of help. Ditton (1999) found that victimological studies of victims' problems tend to exclusively focus on feelings of fear and to ignore feelings of anger. As pointed out by him, a fearful, passive victim in need of help is a more convenient person for support agencies and government alike to manage than an angry one, actively seeking revenge and blaming the government for the poor quality of support and protection given. The helping professions have vested institutional interests in generating and maintaining the imagery of passive, compliant victims (Goodey, 2005). Accordingly, victims in the framework of the new services for victims, were reconstructed as shattered, fearful, vulnerable, helpless and as potential sufferers from a

variety of lasting syndromes of mental illness (e.g. Post Traumatic Stress Syndrome, Battered Wife Syndrome, Stockholm Syndrome, Split Personality Syndrome). Feelings of anger or revenge were, as said, largely ignored in the specialized literature on victims' needs and possible interventions. Angry responses are no defining element of the "post traumatic stress syndrome" or of any other victimization-related disorder listed in the Diagnostic Handbook of Mental Disorders. Feelings of wrath are ignored altogether. Psychiatry with its mental trauma doctrine reproduces and compounds the labelling of victims as meek sufferers. It has shifted the content of the victim label from "Those-Who-Should-Not-Take-Revenge" into "Those-Who-Need-Professional-Help-for-their-Fears-and-Depression".

While victimization for most victims is a passing state from which they may emerge rapidly and invigorated, it was reconstructed by treatment-oriented victimologists into a status of lasting vulnerability<sup>22</sup>. Persons victimized by sexual abuse for example are now generally regarded as harmed for life. In media presentations such categories of victims have become "damaged goods". Romkes has called this type of negative victim labelling by the helping professions and the media "secondary stigmatisation" (Romkes, 1996). Ger Vaders, one of the victims of the hijacking of a train by Moluccan terrorists in the Netherlands in the 1970's, explicitly rejected the help offered by Dutch psychiatrists. He experienced their proposal that he should undergo treatment for PTSD as an attempt at his "incapacitation" and chose to become an activist on victims' issues instead (Van Teeseling, 2001)<sup>23</sup>.

Current models to debrief and treat crime victims have become more client-driven and more evidence-based. It would be foolish to deny the positive contribution of psycho-trauma experts to a better reception and treatment of some categories of crime victims. Even if the results are currently sometimes disappointing (Fattah, 1999), the potential benefits for victims of effective interventions cannot be overstated. But this actual or potential contribution should not blind us for the unintended side effects of treatment victimology. The imagery of the victim as mental patient has reinforced the secret aim of criminal justice to incapacitate the (dangerous) victim. It supports the traditional labelling of victims, no longer like the first victimologists by uncritically blaming them for their fate, but by socially reconstructing them from "wronged parties" into mental patients. In fact, the social prestige of the medical profession may well have persuaded some victims who would

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<sup>22</sup> In a biography of the wife of a murdered victim of extortionist kidnapping, Mrs Hank Heijn, the author quotes her as saying that she had surprised herself with her strength both during the ordeal and afterwards (Verburg, 2006). The experience, she said, had in fact made her a stronger person. In an otherwise favourable review of the book these quotes were singled out for criticism (NRC Handelsblad, September, 29, 2006). Apparently, victims stressing their strengths in opposition to the prevailing stereotypes are likely to meet with reflex-like criticism.

<sup>23</sup> In the early 1970's I acted as consultant of the defence counsel of the perpetrators of a notorious hijacking of a train in the North of the Netherlands. I took part in meetings where victims objected to the dismissive interpretation of their ambiguous feelings about the kidnappers as evidence of their pathological identification with them (the Stockholm syndrome). During the trial the defence counsel made the point that demands for harsh punishment would not necessarily reflect the wishes of the actual victims and that their moderate views on these issues should be taken seriously by the court.

otherwise have been just temporarily very angry at the offender to adopt a self image of mental patient in need of long term therapy. Such socially constructed identity is to be seen as a form of secondary deviance of victims. Treatment-oriented victimology as a discipline has contributed to the socialisation of crime victims into the role of passive sufferers. In this respect it has not served the emancipation of victims but unintentionally joined forces with criminal justice in their covert oppression.

### **Criminal justice reforms: between a rock and a hard place.**

Treatment-oriented victimology went hand in hand with a movement to make the criminal justice responses to crime more victim-friendly. Calls for penal reform covered a wide range of options from better reception, information and restitution to various forms of participation in criminal proceedings. Especially in the USA, victim organizations campaigned for the introduction of victims' rights, including the right to address the court in all relevant stages of the proceedings (Groenhuijsen, 1999; Strang, 2002).

As argued above, criminal justice has the hidden purpose to restore the peace after a crime through the punishment of the offender and incapacitation of the victim. As was to be expected against this background, victim-centred reforms of criminal justice, however modest, were and still are fiercely opposed by the criminal justice establishment, including its academic commentators. Provisions outside criminal justice such as victim support, state compensation or diversionary restorative justice were generally received favourably but any role for victims within criminal proceedings was anathema for criminal law experts and practitioners (Sebba, 1996). Many criminal lawyers sensed in victim rights a Trojan horse of more punitive and inconsistent criminal policies (Buruma, 1994; Sarat, 2002; for a critique see: Erez, 1999). In a Dutch quality paper the introduction of oral victim statements in criminal trials was recently critiqued as *'legitimization of revenge'* (Pemberton, 2005).

The dogmatic opposition of victim rights by criminal lawyers was echoed by a vocal minority of prominent victimologists. In a series of publications Ezzat Fattah and Robert Elias criticized victimology for fuelling a political move towards more repressive criminal justice. Their claim is that victimology has been hijacked by an unholy alliance of law and order advocates and treatment zealots. For two decades now, victimology has both internally and externally been critiqued for promoting unduly punitive criminal policies (Elias, 2000; Garland, 2001; Fattah, 1999, 2002).

The contention that more victim rights implies more severe sentencing is based on a set of assumptions that is as widely shared among legal scholars as it is fundamentally erroneous. The first is to equate the use of the "metaphorical victim" in political or prosecutorial rhetoric with the opinions of real victims. The erosion of traditional belief systems has created a need for a new justification of criminal justice and the "metaphorical victim" fills this vacuum (Boutellier, 1993; Pavlich, 2004). Rhetorical references to the interests of victims are repeatedly made by politicians or prosecutors advocating stiffer sentencing across the West. In the USA punitive laws are no longer passed in the name of King or God but named after individual

victims of the crimes at issue (e.g. Megan's Law, Jenna's Law and the Brady Bill). In popular literature on victim trauma stiff sentences for offenders including capital punishment have been propagated as bringing "closure" for victims (Garland, 2001). In spite of the posturing as "victim advocates" of so many law and order campaigners, there is remarkable little evidence that their agenda's truthfully reflect the opinions of representative groups of crime victims. In some cases, real victims have actually distanced themselves publicly from one-dimensional campaigns for more severe sentencing in their names. A telling example of such opposition is the founder of the influential organization Mothers against Drunk Driving (MADD), Candy Lightner, who openly deplored the organizations' new direction, arguing that its missionary zeal for punishment does victims a disservice (Griffin, 1994).

The determining issue here, of course, is not what victim advocates claim to know about the needs of victims but whether and, if so, to what extent, actual victims are indeed inclined to seek revenge in demanding harsh punishment of the offender. Available evidence indicates that this tenet of conventional legal reasoning stands empirically on very shaky ground. There are documented instances of (family members of) victims campaigning for more severe sentencing. But there are as many or more of victims lobbying for better preventive measures or better victim support. As the former director of British victim support, Helen Reeves, once observed, opinions about sentencing of victims are as varied as those of non-victims (Rock, 2004). Empirical research has indeed consistently shown that victims are surprisingly modest in their expectations and attitudes towards sentencing. Several of the first empirical studies showed that victims wanted information about the trial rather than decision-making power and that their punishment demands were rarely excessive (Van Dijk, 1973; Waller, Okihiro, 1978; Umbreit, 1989; Shapland, 1985; Sessar, 1992; Pfeiffer, 1993). Feelings of revengefulness may be fairly common but they are usually not expressed in excessive sentencing demands. In fact, a majority of victims, however angry, have moderate views on appropriate sentences for their offenders and often see rehabilitation of the offender as a more important objective of punishment than retribution. Comparative, international research has confirmed these results. Victims of property crimes tend to express fairly moderate opinions, especially on the European continent (Van Dijk, Mayhew, Killias, 1990). The majority of burglary victims favours community service over imprisonment for recidivist burglars. These findings led me to criticize the demonization of crime victims by legal scholars in a paper titled "*Who is Afraid of the Crime Victim?*" (Van Dijk, 1994).

Perhaps even more pertinent, victims asked for sentencing suggestions in actual court procedure appear not to be very punitive either. Broadly shared concerns that the introduction of victim impact statements in American or English courts would result in more severe sentencing has not materialized (Erez, 2000). As Erez asked, rhetorically, in a summing up of these results: "*Who is Afraid of the Big, Bad Victim?*" (Erez, 1999). International empirical research has consistently confirmed the reasonableness of victims as participants in both criminal justice and restorative justice.

Underpinning the legal opposition against victim rights is the social reconstruction of victims as mentally handicapped persons whose health condition and related feelings of extreme vindictiveness disqualify them from expressing an opinion on the offender's sentence in court. The stereotypical victim is deemed to be too mad to partake in a rational discourse on the offender's guilt and "just desert" <sup>24</sup>.

Due to the stubborn opposition of legal scholars, victims have still little to gain from the marginal participation in criminal justice presently permitted under reformed criminal justice systems. Ironically, the exclusion of the destructively vengeful victim from criminal justice acts as a self-fulfilling prophecy. The censored participation of the victim in criminal proceedings does little to deflate their anger. The impossibility to confront their offenders and his shielding behind legal technicalities may actually compound such feelings. Criminal justice officials will rarely meet a victim grateful that his needs have been met by the system. Experimental research by Strang (2002) suggests that victims of violence whose cases have been brought to trial are much more likely to maintain lasting feelings of revengefulness than those whose cases had been handed over to and handled by restorative justice programmes. If offenders sincerely express remorse during a face to face encounter with their victims, victims of crimes are much less likely to harbour lasting feelings of revengefulness (Sherman, Strang, 2006). Such results are often interpreted as evidence that victims are best served outside criminal justice. But such a conclusion overlooks the more obvious one, namely that victims have a natural desire to confront their offender during a formal procedure and to hear his response to their statement. To me these findings show that the myth of the intrinsically vengeful victim can no longer be honestly used to deny victims their 'day in court'. The success of restorative justice points to the need to reform criminal justice much more radically than currently is envisaged.

Proponents of restorative justice are less inclined than conventional legal scholars to ascribe a tendency of destructive vengefulness to victims. Many, however, tend to go to other extremes by ignoring the existence of any feelings of vengefulness among victims. In the seminal publication of Christie the 'ideal victim' of criminal justice is portrayed as a frail, utterly innocent and helpless old lady (Christie, 1986). Such idealization of victims may indeed occur, since it supports the objective of victim incapacitation by labelling the others as "bad victims". Much less convincing, however, is Christie's description of what he sees as the actual victims. Using his personal experiences as victim of petty crimes as his only empirical source, he assumes that all victims are as irenic as he was in a similar situation. He completely ignores the possibility that victims of more serious crimes may

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<sup>24</sup> In this context, detractors of victim rights typically refer to Medea, the Greek tragic hero who killed her own children to punish their father for his unfaithfulness (Hart, 2004). Medea symbolizes the supposedly intrinsic destructiveness of victim revenge. But if revengefulness is a deeply rooted universal human impulse, it must be as ritualised and intrinsically social as all intra-group aggression among primates (Lorenz, 1966, De Waal, 2001). Human communities whose members are full of boundless wrath, cannot biologically survive. Medea's act of revenge is a biological oxymoron.

cope with overpowering feelings of anger and wrath. His vision of actual victims is therefore as much a social construction as the criticized ideal victim of criminal justice. It is, in fact, the socially constructed, "ideal victim of restorative justice". This ideal victim is free of vengefulness and mentally ready to accept apologies from the offender and to offer forgiveness. Not by chance the first operational programmes of restorative justice in the USA were called Victim Offender Reconciliation Conferences or Programmes. Not coincidentally, most of these programmes were launched by faith-based institutions such as the Mennonite Church, implementing their Christian belief in "compulsory forgiveness" (Acorn, 2004).

According to criminal justice experts, victims are too vengeful to gain access to criminal proceedings. They are not afforded more than a role in the margins. According to the pioneering restorative justice programmes, victims are welcome on the condition that they arrive in a spirit of forgiveness. Victims seeking therapeutically useful responses to their legitimate anger from any justice system find themselves between a rock and a hard place. Wherever they go, justice officials will stand ready with preconceived notions of how victims are and how they should be. Those labelled as victims will normally be treated with suspicion and with insufficient regard for their true feelings and views.

### **Victim labelling theory**

Holley and Brewster (2006), in line with Miers (1980, 1989) and Rock (2004), argue for a new victimology that takes processes of victim labelling as its main subject matter. In their view "victim status" is claimed or "searched" by victims and subsequently asserted, evaluated and verified by relevant social institutions. Although I am largely in sympathy with the idea that victim labelling forms the emerging research agenda of victimology, some important specification must in my view be made.

I am, firstly, not convinced that victim labelling as assumed by Holley and Brewster, can be indiscriminately applied to all kinds of victims, including those of accidents or natural disasters. As I have argued above, the labelling of those wronged by crimes as *victima* triggers very specific and highly consequential connotations in Western culture. Within victim labelling theory, special attention must therefore be given to the labelling of those victimized by events justifying revenge ('vengeable' acts). The primary circle of victims should consist of those who are suffering from the guilty acts of other persons<sup>25</sup>.

In my view, victim labelling is not to be seen as a process whereby the victims themselves are the initiating parties, seeking an entitling status that the social

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<sup>25</sup> According to this definition, victims of violent, interpersonal crimes including terrorist attacks on civilians are centre stage in victimology. Victims of volume crime such as minor thefts or acts of vandalism seem peripheral to the discipline. The definition fully includes victims of various forms of abuse of power, whether criminalized or not. Finally, the definition includes victim of accidents or natural disasters to the extent that the issue of responsibility arises such as in cases of careless driving or "unnatural disasters" blamed on the carelessness or incompetence of public officials (Van Vollenhoven, 2006).

environment may or may not be inclined to assign to them. Crime victims, in my view, are confronted with a set of preconceived ideas about their emotions, perceptions and behaviours, including a set of moral demands or role expectations. Victim labelling is thus to be seen as a process activated by the victims' social environment wherein victims must either accept a preconceived and limiting status or actively engage in re-negotiating their position and identity.

A further implication of this view is that victim labelling should not focus on the process of screening or shaping of victim-clients by formal organizations. Victim labelling takes place in both informal and formal settings in interaction with each other and may entail both benefits and negatives for those so labelled. On the positive side victims can, as discussed, expect sympathy and support both from their social environment and from several official institutions. On the negative side, the connotations of deep and lasting suffering may trigger embarrassment and avoidance in the informal sphere. More importantly the intrinsic association of the victim label with the risk of revenge-taking elicits concerns and considerations of control. Victims, as discussed, are often suspected to harbour un-Christian feelings of wrath. Partly in relation to this and partly for other psychological reasons, they are also often blamed for their own misfortune, especially in cases of very serious crimes that are frightening to others. In many cases the label may thus engender negatives such as suspicion, blame and exclusion, resulting in stigmatization and other forms of secondary victimization.

Labelling by officials in formal settings should be seen as a special category of labelling to be analysed separately, though in its interaction with informal labelling and against the backdrop of Christian culture. Labelling by the helping professions has been discussed above at length. It seeks to offer effective mental health interventions that help victims to retake control of their lives. But it may also entail the unsolicited and unhelpful projection of syndromes of mental illness, including the status of incurable mental patient. Responses from Church officials may offer welcome spiritual guidance and support but may also 'misfire' by exerting pressure on victims to forgive the offender and, in connection with this, blaming the victim for his failure to oblige.

Police officers can help to reassure victims that they are safe and that efforts will be made on their behalf to bring their offenders to justice. If this is realized, police officers arguably are the single most effective contributors to the victim's healing. In reality, many police officers fall short of this goal and continue to engage in subtle or less subtle forms of victim blaming. In high profile cases its impact is often amplified by media reporting. Numerous examples can be given of victim blaming stories reported uncritically in the popular press such as allegations that victims of serious violence may themselves be engaged in drugs trafficking (Cuyvers, 1985)<sup>26</sup>. A crass

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<sup>26</sup> When UK citizen Terry Waite was released after five years of imprisonment by terrorist kidnappers, the BBC broadcast a documentary wrongly confirming his alleged involvement in an illegal arms deal. In the Netherlands several media reports on heinous crimes have in recent years wrongly suggested that the victims had been involved in drugs trafficking.



example was recently provided by the Austrian media when it spread rumours about the complicity of Natascha Kampusch in her own kidnapping, forcing her lawyers to state that once again a victim was made into co-offender.

Those victims seeking access to criminal justice will often be confronted with suspicion-based procedural obstacles to meaningful participation. If they get access to criminal justice procedures or restorative justice they have to comply with detailed requirements and guidelines. Victims making statements in court in most countries including the Netherlands are, for example, not allowed to express opinions on the appropriate punishment of the offender. Through such guidance they are socialised into the role of "good victims". Victims participating in restorative justice must typically go through an extended process of preparation, obliging the victim, in the words of Pavlich (2005), to "adopt a particular identity"<sup>27</sup>. A related form of formal labelling is the screening of eligible victims by bureaucratic agencies such as state compensation or programmes for trafficking survivors<sup>28</sup>. Entitlements such as compensation or residential permits are conditioned on compliance with official images of responsible victimhood requiring full cooperation with the police.

In extreme cases victims will internalize the role expectations of their social environment including authorities and adopt the identity of someone who passively accepts his/her victimization as a fate he or she deserves. Examples of the adoption of such victim identities can be found among victims of systemic collective victimization against minority groups (e.g. the Indian caste system or subcultures of bonded labour). In individual cases, victims may adopt a self-image of born loser. If victims commence to see themselves as passive and helpless sufferers, such victims possess diminished capacities to avoid further victimization and are more vulnerable to fall victim to repeat victimization. This victim recidivism will once again deepen self-images of vulnerability. In this light some forms of repeat victimization should be understood as resulting from identification with the label assigned to victims by officials and society generally. Such identification can be seen as a form of secondary deviance of victims.

Alternatively, the victim may revolt against the dismissive, incapacitating treatment by the criminal justice system and related service-providers. People with previous negative experiences with the police as reporting victims are significantly less inclined to notify the police of further victimizations (Van Dijk, 2000). Non-reporting for them may be a way to avoid further painful labelling as victims. In the process such repeat victims run the risks of alienation from official institutions representing the state in general. Secondary victimization of crime victims is not just a negative experience but can lead to long term

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<sup>27</sup> "They should keep control of their emotions as far as possible, and never become abusive or revengeful (...). If possible, victims are encouraged to forgive (...)." (Pavlich, 2005).

<sup>28</sup> Miers's (1980) prime example of labelling is the vetting of applicants for state compensation in the UK which seeks to exclude those with an "unworthy" lifestyle. A similar negotiating between authorities and victims about claimed victim status takes place in the framework of newly introduced, victim-centred policies with regard to victims of human trafficking.

loss of faith in all state institutions (Wemmers, 1996). It constitutes another form of secondary deviance resulting from victim labelling.

### **Redesigning victim empowerment and support**

The single most important contribution victimology can make to assist victims at this juncture seems the deconstruction and exposure of the prevailing imageries of victims as persons who are shattered, weak, vulnerable, fearful, depressed and secretly hateful. Victimologists must expose social constructions informed by historical notions about suffering, blame and forgiveness, including those reproduced by older streams of victimology such as interactionist victimology, treatment victimology and restorative justice. Victimologists should promote images of victims that will give them more space to define themselves and to express their true feelings and needs.

In North America and South Africa the concept of victim assistance is replaced by victim empowerment. This concept is to be welcomed since it can help to avoid some of the negative connotations of the victim label. The new concept implies that victims must be helped to help themselves. It stresses the agency and autonomy of crime victims, including their potential to fend for themselves and stand up against their victimizers in court or in restorative justice meetings. It also reminds us that victims have many actual and potential strengths that should be harnessed for their own and society's good. Victims possess unique firsthand knowledge of the consequences of victimization and are therefore natural promoters of sensible crime prevention. They have been sensitized to human suffering and are therefore often motivated to engage in public activism. As mentioned Mukhtar Mai, victim of gang rape in a Pakistani village, started a local school for girls and became an international campaigner for gender equality. Such victim activism has received little attention from victimologists but may well be a very common response to criminal victimization<sup>29</sup>.

In previous studies of trauma treatment and victim support much attention has been given to methods to alleviate feelings of fear and depression. Equal attention should be given to (the development of) methods to diffuse feelings of anger and revengefulness. Promising techniques to diminish anger rumination such as the writing of expressive diaries should be further developed and pilot tested (Pemberton, Winkel, Groenhuijsen, 2006). Justice procedures should provide outlets for feelings of victims as well. In a recent article Strang argues for offering victims room within restorative justice to express *"their feelings of anger, fear and outrage as well as their desire for the offender to be hurt as much as they have been hurt"* (Strang, 2004). Several authors have critiqued the tabooing of vindictiveness in Western culture and its dangerous re-emergence in undercurrents of resentment and

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<sup>29</sup> Van Teeseling interviewed fifteen of such victim activists from the UK and the Netherlands, including Terry Waite (Van Teeseling, 2001). In the Netherlands the mother of a murdered child who was secondarily traumatized by errors made by the police, is now offering experience-based training courses for police investigators. Another telling example of victim activism is the establishment of the Jill Dando Centre for Crime Science in London, presently one of the leading centres of expertise on crime prevention in the world, by the fiancée of the late broadcaster Jill Dando, victim of a street murder.

punitivity among segments of the public (Jacoby, 1983; Denkers, 2000; Van Stokkom, 2003; Boutellier, 2004). A controlled expression of vindictiveness in the context of criminal or restorative justice systems could indeed perform important social functions for all parties concerned as well as for society at large. Borrowing a phrase of sociologist Norbert Elias about the regulation of violence, victim participation in criminal justice requires a *"controlled decontrolling of controls"*.

Although we have critiqued the dogmatic Christian expectation of instantaneous forgiveness and reconciliation, our "ideal victims" are not those seeking the destruction of their attackers in a spirit of Nietzschean heroism. If victims are fortunate enough to meet a sincerely remorseful offender, forgiveness and reconciliation can bring wholesome "closure" for victims (Strang, Sherman, 2004; Strang, 2004). If such happy end seems within reach, it is the preferred option. In other cases "good victims" are those who succeed in integrating their anger in a reconstructed scenario of their lives wherein the offender has lost his significance. In many cases the highest achievable goal for victims is to "let go" and get on with their lives. Others will manage to transform their sorrow and anger in social activism. The first priority of criminal justice and victim support should be to promote such "good enough" endings.

In conclusion, victim labelling theory in operational terms argues for the recognition of the self-reliant and active side of victims. Crime victims must be liberated from oppressive cultural constraints and empowered to fend for themselves. They should no longer be suspected of being less than fully human. Only when the process of oppressive victim labelling is exposed, will it become possible to understand the real needs of victims and to design a more fitting, societal response to their plight. Only when victims are allowed to show their true faces, Christian or humanitarian solidarity can find its full expression.

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